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ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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October 19, 2000

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DOCKETED BY

Jr

Commissioner Jim Irvin
Arizona Corporation Commission
1200 West Washington
Phoenix, AZ 85007

RE:Qwest Case Proceedings -- Settlement Negotiations -- T-01051B-99-0105

Dear Jim:

I had hoped that these little exchanges had ceased, but recognize that although hope springs eternal, one's hopes are almost never answered (at least not at this place).

As for your concern about not having been apprised of settlement negotiations between staff and Qwest, you are mistaken. On October 4th, during a staff meeting, the utilities division director made each office aware of settlement discussions between staff and Qwest (a copy of the minutes has been provided for your review -- your aide was present). Your office did not comment and for that matter, once again, you were not there (though you were in the office but chose not to attend).

As for your suggestion that the Commissioners need to sign off on settlement negotiations, there is no such requirement (something you should know having now been here for four years). In fact, as you should know, staff retains a level of autonomy to prepare and argue their respective positions on any matter before the Commission. I have never once been asked by staff as to whether it was permissible to engage in such discussions. I'd be interested in knowing if you have. More to the point, if so, what information did staff provide that caused you to authorize such activity?

In fact, if you're having trouble understanding how this place has worked over the years, I'd be happy to provide an exhaustive list of items that were concluded through settlement negotiations during your time on the Commission (I'm sure there are also many settlement efforts that never concluded in an agreement).

Just a quick list would include the Sun Lakes/Pima Utilities rate case of the last year; the Southwest Gas/ONEOK merger agreement that has now failed; the pay-telephone resolution of December 31, 1999; countless securities matters; and let's not forget the Bermuda Water Company matter, wherein Jack Rose attempted to instruct staff to settle and the hearing division to issue an order without a hearing. In fact, didn't you try to amend their rate case order to add nearly one million dollars in additional rate base that was unsubstantiated?

All that I have ever asked is that the Commissioners be informed about pending settlements on significant matters before the settlement is completed. I, too, do not like surprises.

October 19, 2000

Page 2

Settlement negotiations are a common occurrence here at the Commission. I find myself a strong supporter of negotiated agreements that are supported with a record. It would be irresponsible for staff not to entertain agreements on favorable terms that are fair for all parties concerned. Should a settlement come before the Commission, the parties advocating such a resolution must provide supporting rationale and bear the burden of proof that such a resolution is in the public interest.

Whether the settlement in this matter is fair for all is something that will be determined only after a record is created and parties (including the public) have an opportunity to comment on staff's proposal. Though I certainly expected public comment to occur before the matter is brought to us for a decision, I would certainly support holding public comment meetings before the November hearing. All you had to do was ask. No need to feign inattention for the press in an effort to generate adverse media coverage.

With respect to your statement that "this appears to be yet another case of limiting the public from any meaningful input into a very important matter," those days came to an end after your December 31st meeting in 1998. You remember, vote trading with Renz Jennings at the 11th hour and votes taken on important matters with just four days notice (Justice Jones had something to say about this, didn't he?).

You are correct when you state that "Arizona telephone consumers deserve better than public hearings intended as nothing more than political maneuvering." In fact, they deserve more from an elected official than repeated efforts to create controversy by casting political aspersions disguised as genuine concern. If you really cared about these issues, you would show up and participate in dialogue with both your colleagues and staff, as opposed to writing fiction under the guise of concern and sending it to the press in hopes of generating media coverage.

Unfortunately, your political antics have become a common occurrence. Most recently, your "concern" for consumer education when television cameras are rolling, and yet, you didn't have 30 minutes to sit through a staff presentation (given twice) designed to foster feedback on how the Commission should educate Arizonans about deregulation (instead, you chose to sit in your office with the door closed). This presentation was given at the same October 4, 2000 meeting wherein Deb Scott informed the Commissioners that settlement negotiations had neared resolution.

I don't know who you think you are kidding, but trust me when I tell you the public knows the truth.

Sincerely,



Carl J. Kunasek
Chairman

cc: Commissioner Mundell
Brian McNeil, Executive Secretary
Deb Scott, Director, Utilities Division
Jerry Rudibaugh, Chief Hearing Officer
Lindy Funkhauser, RUCO Director
All Parties of Record
Docket Control

**SPECIAL OPEN MEETING MINUTES
OF THE ARIZONA CORPORATION COMMISSION**

COMMISSION STAFF MEETING

DATE: WEDNESDAY, October 4, 2000

TIME: 9:00 a.m.

In attendance: Chairman Kunasek, Commission Mundell, Brian McNeil, Michael Kearns, Dean Miller, Jerry Porter, Hercules Dellas, Patrick Black, Joanne MacDonnell, Bill Parkerson, Jerry Rudibaugh, Heather Murphy, Deborah Scott, Barbara Wytaske, Mark Sendrow, Victor Rodarte, Lyn Farmer, Chris Kempley, Adam Stafford, Connie Walczak, and Jennifer Donlon

AGENDA

1. Presentation by Consumer Services on Electric Restructuring/Deregulation Utilities Division
2. Division Updates – Division Directors

The meeting was called to order by Chairman Kunasek at 9:06 a.m.

1. **Presentation by Consumer Services on Electric Restructuring/Deregulation Utilities Division**


Jennifer Donlon began the presentation stating that this was an example of the presentation that would be given to homeowners associations and residential customers. A copy of the brochure was provided to all.

Suggestions were made as follows:

- include slide in their presentation depicting the situation in California;
- include in their slide presentation a copy of the bill covering the language and all the provisions on the bill;
- make low income customers aware of the programs that are available to them;
- provide consumers with laminated cards with utility companies phone numbers.

2. **Division Updates**

Utilities Division

 (Deb Scott stated that Staff and Qwest are very close to reaching a settlement in principle.) The Division is working with Dean Miller on upgrades to positions. Team Building Workshops are being held with individual sections participating. The Division is continuing to fill vacant our positions. Two new staff members have joined the Accounting & Rates section

and the Consumer Services Section. Approximately 12 new water rate cases have been filed in the last three weeks.

Corporations Division

Joanne MacDonnell stated that their website is up and running. They have a backlog of 22,000 annual reports. Last year at this time, their backlog was 37,000. Computer conversion made it difficult to process Revocations and Delinquencies, but they are now getting processed.

Hearing Division

Jerry Rudibaugh stated that the Qwest rate case is scheduled to begin on Tuesday, October 10th.

Securities Division

Mark Sendrow stated that the Division is fully staffed. The Division took action against Arthur Anderson in the Baptist Foundation matter. They have requested a hearing.

Legal Division

Lyn Farmer stated that five lawsuits have been filed. Tim Hogan has filed three appealing line siting decisions; RUCO filed a lawsuit appealing the U S WEST depreciation decision and the Environmental Portfolio decision.

Admin Division

Mike Kearns mentioned that there are still ongoing OSPB meetings to talk about Division issues.

Brian McNeil stated that the JLBC was pleased to have met with all Division Directors and Assistant Directors.

Heather Murphy thanked Dean Miller for taking over her tasks while she was on vacation.